

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TRAVELHOST, INC.,	§	
	§	
Plaintiff-counterdefendant,	§	
	§	Civil Action No. 3:11-CV-0455-D
VS.	§	
	§	
TONYA FIGG, et al.,	§	
	§	
Defendants-counterplaintiffs.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the May 25, 2012 findings, conclusion, and recommendation of the magistrate judge, the court concludes that the findings and conclusion are correct. It is therefore ordered that the findings, conclusion, and recommendation of the magistrate judge are adopted. The June 13, 2012 objection of plaintiff-counterdefendant TRAVELHOST, Inc. (“TRAVELHOST”), as amended, is overruled, and TRAVELHOST’s April 24, 2012 renewed and amended motion for sanctions is granted in part and denied in part.


TRAVELHOST objects to the findings, conclusion, and recommendation to the extent the magistrate judge declines to recommend entry of a permanent injunction. TRAVELHOST maintains that the court should equitably extend the non-compete term for two years from the date of the court’s judgment. The court disagrees. As a result of striking defendant Tonya Figg’s (“Figg’s”) pleadings, the allegations of TRAVELHOST’s original and amended complaint are taken as true. *See, e.g., In re Wright*, 1993 WL 361139, at *2 (5th Cir. Sept. 3, 1993) (per curiam) (unpublished opinion) (“As a result of Wright’s answer being stricken, the allegations contained in John Deere’s original and amended complaint are taken as true[.]”). These allegations, however, do not support

TRAVELHOST's assertion that the non-compete term should be equitably extended. If TRAVELHOST seeks such relief as to Figg, it must continue this lawsuit, seeking leave to amend its complaint to add allegations that support the equitable extension of the non-compete term as to Figg.

Accordingly, the May 25, 2012 findings, conclusion, and recommendation of the magistrate judge are adopted, and TRAVELHOST's April 24, 2012 renewed and amended motion for sanctions is granted in part and denied in part.

SO ORDERED.

August 1, 2012.



SIDNEY A. FITZWATER
CHIEF JUDGE